

A property owner who owes delinquent taxes on a 30-acre lot wants to create and sell a two-acre portion of the property in order to reduce the amount of the delinquency. He is asking the collector of delinquent taxes to prorate the delinquency on the two acres so that it can be sold unencumbered. The sale of the two-acre lot would not generate enough money to pay the entire delinquency on the 30 acres. Can I do this?

No. Real property tax liens remain, by law, in full force and effect for a period of 15 years against the parcel of real estate upon which a tax is assessed, or until they are paid in full or abated by the board of abatement. 32 V.S.A. §5061. Real taxes are assessed against the last owner or possessor of the property on April 1 in each year. 32 V.S.A. §3651. In addition, real estate taxes are assessed and set in the grand list as “*separate*” and individual “*pieces or parcels of taxable real estate ... owned by each taxpayer*”. 32 V.S.A. §4153. The collector of delinquent taxes has no legal authority to abate or prorate property taxes if the delinquent taxpayer wants to sell off a portion of the land. The portion that is sold is sold subject to the tax lien then in effect. Not even the listers or selectboard have been given the legal authority to abate, prorate, or grant a partial release of the real estate tax lien once it has been assessed against a property.

Of course, one may argue that the law allows for the proration of taxes during a regular real estate transaction (it is understood that the buyer bears the proportionate burden of real estate taxes assessed, unless otherwise expressly stated or agreed between the seller and buyer). However, the lien does not by force of law automatically transfer over to the buyer. The law simply “*presumes*” that, in fairness, the buyer will assume his or her proportionate share of *current* taxes upon transfer of ownership. 27 V.S.A. §309. Delinquent taxes are another matter. Once the taxes have gone delinquent and a warrant has been issued for their collection, the collector is obligated to collect the entire amount due and has no authority to enter into any agreement with the taxpayer to “release” a portion of the tax lien. 32 V.S.A. §§4874 et seq. The collector does, however, have the discretion and authority to enter into an installment payment agreement to collect the entire tax.

NOTE: The VLCT Municipal Law Center has published a **Handbook for Collectors of Delinquent Taxes**. To order a copy, call 800/649-7915 or e-mail info@vlct.org.

VLCT News, June 1999